



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/171009

PRELIMINARY RECITALS

Pursuant to a petition filed December 22, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on February 10, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in its reduction of approved PCW hours from 35 hours to 17.5 hours following an amendment request from the provider indicating that only 17.5 hours were necessary.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED], RN, BSN (in writing)
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner had been approved for 35 hours of PCW care.

3. On 11/10/15 the provider submitted an amendment indicating that only 17.5 hours were appropriate. The Department reduced the amount of approved hours to 17.5.
4. Petitioner appealed.

DISCUSSION

A petitioner and provider bear the burden at hearing of proving the medical necessity and appropriateness of requested PCW hours. In this case the provider requested the reduction as it determined 17.5 hours to be the necessary and appropriate time. Its request for amendment indicates that the professional provider agency does not believe that 35 hours is necessary any longer.

At hearing, petitioner presented no testimony other than her own belief that more time is needed. She lacked specificity as to why the agency's opinion differs from her own. She generally expressed disagreement and dissatisfaction with the provider. Overall, petitioner failed to overcome her burden to show that the increased time is appropriate or necessary. Petitioner is free to engage with a different care provider who may seek increased time if it believes the additional time is justified.

CONCLUSIONS OF LAW

The agency did not err in granting the reduction of time as requested by petitioner's care provider.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 3rd day of March, 2016

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 3, 2016.

Division of Health Care Access and Accountability